

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

Kay Diane Ansley, Catherine “Cathy” McGaughey, Carol Ann Person, Thomas Roger Person, Kelley Penn, and Sonja Goodman,

Plaintiffs,

vs.

State of North Carolina,

Defendant,

Case No.: 1:15-cv-274

and

Phil Berger, President Pro Tempore of the North Carolina Senate, and Tim Moore, Speaker of the North Carolina House of Representatives, on behalf of the North Carolina General Assembly,

Proposed Defendant-  
Intervenors.

**PROPOSED DEFENDANT-INTERVENORS' MOTION TO DISMISS**

Proposed Defendant-Intervenors Phil Berger, President Pro Tempore of the North Carolina Senate, and Tim Moore, Speaker of the North Carolina House of Representatives, on behalf of the North Carolina General Assembly, respectfully move this Court for an order dismissing Plaintiffs’ Complaint (ECF No. 1) pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) because the Complaint is barred by the Eleventh Amendment to the United States Constitution, Plaintiffs lack standing to raise (and thus this Court lacks subject-matter jurisdiction to review) the claims asserted, and the Complaint fails to state a claim upon which relief can be granted. Proposed Intervenors rely on the factual and legal grounds set forth in the accompanying brief.

As required by Fed. R. Civ. P. 24(c), Proposed Intervenors have electronically served this Motion on the parties through the Court's CM/ECF filing system.

Date: February 4, 2016

Respectfully submitted,

/s/ Robert D. Potter, Jr.

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*Attorneys for Proposed Defendant-Intervenors*

*\*Notice of Appearance to be filed*

## CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2016, I electronically filed the foregoing paper with the Clerk of Court by using the CM/ECF system.

All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

Date: February 4, 2016

/s/ Robert D. Potter, Jr.  
Robert D. Potter, Jr.